

ASSEMBLY BILL

No. 925

Introduced by Assembly Member Richman

February 20, 2003

An act to amend Section 42301.14 of the Health and Safety Code, and to amend Section 25550 of the Public Resources Code, relating to powerplants.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as introduced, Richman. Powerplants: permits.

(1) The existing California Energy Security and Reliability Act of 2000, parts of which are to be repealed on January 1, 2004, authorizes air pollution control districts and air quality management districts to issue permits for operating powerplants. The act provides that those districts may also issue a temporary, expedited, consolidated permit for a thermal powerplant if specified conditions are met.

This bill would reduce the number of conditions a powerplant must meet to qualify for an expedited permit, including deleting the requirement that the powerplant either be modified, replaced, removed, or cease to operate in 3 years. The bill would eliminate the repeal date of those provisions, thereby extending their application indefinitely.

(2) Another provision of the existing act, which is also to be repealed on January 1, 2004, requires the State Energy Resources Conservation and Development Commission to establish a process for the expedited review of applications to construct and operate thermal powerplants and related facilities.

This bill would eliminate the repeal date of those provisions, thereby extending their application indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42301.14 of the Health and Safety Code
 2 is amended to read:
 3 42301.14. (a) To the extent permitted by the federal Clean
 4 Air Act (42 U.S.C. Sec. 7401 et seq.), and notwithstanding Section
 5 65950 of the Government Code, a district may issue a temporary,
 6 expedited, consolidated permit, as provided by Sections 42300.1
 7 and 42301.3, for a powerplant within 60 days after the date of
 8 ~~certification~~ of an environmental impact report *certification*,
 9 within 30 days after ~~the adoption of~~ *adopting* a negative
 10 declaration, or within 30 days after the date of a determination that
 11 the project is exempt from Division 13 (commencing with Section
 12 21000) of the Public Resources Code, if all of the following
 13 conditions are met:
 14 (1) The powerplant will emit less than 5 parts per million of
 15 oxides of nitrogen averaged over a three-hour period.
 16 (2) The powerplant will operate exclusively under the terms of
 17 a contract entered into with the Independent System Operator and
 18 approved by the Electricity Oversight Board established pursuant
 19 to Article 2 (commencing with Section 334) of Chapter 2.3 of Part
 20 1 of Division 1 of the Public Utilities Code.
 21 (3) The owner or operator of the powerplant shall demonstrate
 22 that the powerplant, on average, will displace electrical generation
 23 that produces greater air emissions in the same air basin or in a
 24 basin that causes air pollution transport into that basin.
 25 (4) The powerplant will be interconnected to the grid in a
 26 manner that the Public Utilities Commission, in consultation with
 27 the Electricity Oversight Board, has determined will allow the
 28 powerplant to provide service to a geographical area of the state
 29 that is urgently ~~in need of~~ *needs* generation in order to provide
 30 reliable electric service. However, nothing in this paragraph
 31 affects ~~the authority of~~ the Energy Resources Conservation and
 32 Development ~~Commission~~ *Commission's authority* over
 33 powerplants pursuant to Chapter 6 (commencing with Section
 34 25500) of Division 15 of the Public Resources Code.



1 (5) The powerplant will be operated at a location that has the
2 necessary fueling and electrical transmission and distribution
3 infrastructure for its operation.

4 ~~(6) The owner or operator of the powerplant enters into a~~
5 ~~binding and enforceable agreement with the district, and where~~
6 ~~applicable, with the Energy Resources Conservation and~~
7 ~~Development Commission, which demonstrates either of the~~
8 ~~following:~~

9 ~~(A) That the powerplant will cease to operate and the permit~~
10 ~~will terminate within three years.~~

11 ~~(B) That the powerplant will be modified, replaced, or~~
12 ~~removed within a period of three years with a combined-cycle~~
13 ~~powerplant that uses best available control technology and offsets,~~
14 ~~as determined at the time the combined-cycle plant is constructed,~~
15 ~~and that complies with all other applicable laws and regulations.~~

16 ~~(7)~~

17 (6) Where applicable, the owner or operator of the powerplant
18 will obtain offsets or, where offsets are unavailable, pay an air
19 emissions mitigation fee to the district based upon the actual
20 emissions from the powerplant, to the district for expenditure by
21 the district pursuant to Chapter 9 (commencing with Section
22 44275) of Part 5, to mitigate the emissions from the plant.

23 ~~(8) It is the intent of the Legislature in this section to encourage~~
24 ~~the expedited siting of cleaner generating units to address peaking~~
25 ~~power needs. It is further the intent of the Legislature to require~~
26 ~~local air quality management districts and air pollution control~~
27 ~~districts to recognize the critical need for these facilities and the~~
28 ~~short life span of these facilities in exercising their discretionary~~
29 ~~authority to apply more restrictive air quality regulations than~~
30 ~~would otherwise be required by law.~~

31 (b) This section may be utilized for the purpose of expediting
32 the siting of electrical generating facilities pursuant to Chapter 6
33 (commencing with Section 25500) of Division 15 of the Public
34 Resources Code.

35 ~~(c) This section shall remain in effect only until January 1,~~
36 ~~2004, and as of that date is repealed, unless a later enacted statute,~~
37 ~~that is enacted before January 1, 2004, deletes or extends that date.~~

38 SEC. 2. Section 25550 of the Public Resources Code is
39 amended to read:



1 25550. (a) Notwithstanding subdivision (a) of Section
2 25522, and Section 25540.6, the commission shall establish a *an*
3 *expedited certification* process to ~~issue its final certification~~ for
4 any thermal powerplant and related facilities ~~within six months~~
5 ~~after the filing of the application for certification that, on the basis~~
6 ~~of an initial review, if the certification application, after an initial~~
7 ~~review by the commission, shows that there is~~ substantial evidence
8 that the project will not cause a significant adverse impact on the
9 environment or electrical system and will comply with all
10 applicable standards, ordinances, or laws. *This expedited*
11 *certification process shall be completed within six months of the*
12 *date the certification application is filed.* For purposes of this
13 section, ~~filing~~ *filed* has the same meaning as in Section 25522.

14 (b) Thermal powerplants and related facilities reviewed under
15 this process shall satisfy the requirements of Section 25520 and
16 other necessary information required by the commission, by
17 regulation, including the information required for permitting by
18 each local, state, and regional agency that would have jurisdiction
19 over the proposed thermal powerplant and related facilities, but
20 for the *commission's* exclusive jurisdiction ~~of the commission~~, and
21 the information required for permitting by each federal agency that
22 has jurisdiction over the proposed thermal powerplant and related
23 facilities.

24 (c) After ~~acceptance of~~ an application *is accepted* under this
25 section, the commission ~~shall~~ *is not be* required to issue a
26 six-month final decision on the application if it determines there
27 is substantial evidence in the record that the thermal powerplant
28 and related facilities may result in a significant adverse impact on
29 the environment or electrical system or does not comply with an
30 applicable standard, ordinance, or law. Under this circumstance,
31 the commission shall make its decision in accordance with
32 subdivision (a) of Section 25522 and Section 25540.6, ~~and without~~
33 ~~requiring a new application shall not be required.~~

34 (d) For an application that the commission accepts under this
35 section, all local, regional, and state agencies that would have had
36 jurisdiction over the proposed thermal powerplant and related
37 facilities, but for the *commission's* exclusive jurisdiction ~~of the~~
38 ~~commission~~, shall provide their final comments, determinations,
39 or opinions within 100 days after ~~the filing of~~ the application *is*
40 *filed.* The regional water quality control boards, as established



1 pursuant to Chapter 4 (commencing with Section 13200) of
2 Division 7 of the Water Code, shall retain jurisdiction over any
3 applicable water quality standard that is incorporated into any final
4 certification issued pursuant to this chapter.

5 (e) Thermal powerplants and related facilities that demonstrate
6 superior environmental or efficiency performance shall receive
7 priority in review.

8 (f) With respect to a thermal powerplant and related facilities
9 reviewed under the process established by this chapter, it shall be
10 shown that the applicant has a contract with a general contractor
11 and has contracted for an adequate supply of skilled labor to
12 construct, operate, and maintain the plant.

13 (g) With respect to a thermal powerplant and related facilities
14 reviewed under the process established by this chapter, it shall be
15 shown that the thermal powerplant and related facilities complies
16 with all regulations adopted by the commission that ensure that an
17 application addresses disproportionate impacts in a manner
18 consistent with Section 65040.12 of the Government Code.

19 (h) This section ~~shall~~ *does* not apply to an application filed with
20 the commission on or before August 1, 1999.

21 (i) To implement this section, the commission may adopt
22 emergency regulations in accordance with Chapter 3.5
23 (commencing with Section 11340) of Part 2 1 of Division 3 of Title
24 2 of the Government Code. For purposes of that chapter, including
25 without limitation, Section 11349.6 of the Government Code, the
26 adoption of the regulations shall be considered by the Office of
27 Administrative Law to be necessary for the immediate
28 preservation of the public peace, health, safety, and general
29 welfare.

30 ~~(j) This section shall remain in effect until January 1, 2004, and~~
31 ~~as of that date is repealed unless a later enacted statute, that is~~
32 ~~enacted before January 1, 2004, deletes or extends that date.~~

